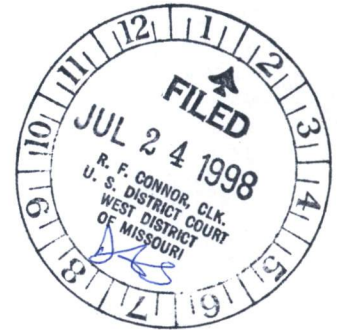


IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION



MARVIN FIELDER, et al.,

Plaintiffs,

v.

CREDIT ACCEPTANCE
CORPORATION, et al.,

Defendant.

Case No. 96-1210-CV-W-3

ORDER DENYING CAC'S MOTION TO DECERTIFY CERTAIN CLAIMS

Pending is CAC's Motion to Decertify Certain Claims (Doc. # 167). Upon consideration by the Court and the parties' briefs, the Motion is DENIED.

CAC argues that this Court should decertify Plaintiffs' claims for (1) class-wide relief under R.S. Mo. Section 408.562 because the statute does not provide for class actions and for (2) Plaintiffs' Class 2 claims because Plaintiffs are asking for monetary damage awards. First, the Court finds that CAC could have and should have raised these arguments at the certification hearing or in the hearing briefs because this motion is merely asking for reconsideration of the Court's prior Order certifying the class. CAC is not pointing to any new law or facts which change the class status from the time the Court granted the certification. Secondly, CAC acknowledges that federal civil procedure, not state civil procedure, applies to this matter and class certification is a procedural tool, not a substantive cause of action. Third, the Court is not convinced that Missouri Courts would not certify a class action for a violation under R.S.Mo. Section 408.562. Additionally, the Plaintiffs have asked for a variety of relief in addition to monetary awards. If appropriate, the Court may order other such equitable relief as to accomplish Plaintiffs goals and protect their interests.

IT IS SO ORDERED.

Date: JUL 24 1998


ORTTRIE D. SMITH, JUDGE
UNITED STATES DISTRICT COURT

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